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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,566	04/16/2004	Paolo Salvoni	785-011775-US (PAR)	2095

2512 7590 01/31/2005

PERMAN & GREEN  
425 POST ROAD  
FAIRFIELD, CT 06824

EXAMINER

HUYNH, LOUIS K

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/826,566

Applicant(s)

SALVONI, PAOLO eD

Examiner

Louis K. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on applications filed in EPO on 04/17/2003 and 05/13/2003. It is noted, however, that applicant has not filed certified copies of the EPO 03 088 981.7 and EPO 03 010 670.2 application as required by 35 U.S.C. 119(b).

### ***Specification***

2. The abstract of the disclosure is objected to because it does not disclose a concise statement of the technical disclosure of the patent that is new in the art to which the invention pertains. Correction is required. See MPEP § 608.01(b).

3. The disclosure is objected to because of the following informalities:

The specification lacks proper headings according to current U.S. practice.

“he accumulation” on page 4, line 16 should be changed to: --the accumulation--.

Appropriate correction is required.

### ***Claim Objections***

4. Claims 1-7 are objected to because of the following informalities:

“characterized in that it” (claim 1, line 7) should be changed to: --wherein the machine--.

“characterized in, that comprises” (claim 2, lines 1-2) should be changed to: -- wherein the machine further comprises-- or --further comprising--.

“characterized in, that” (claim 3, lines 1-2) should be changed to: --wherein--.

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“characterized in, that” (claim 4, line 2) should be changed to: --wherein--.

“characterized in, that” (claim 5, lines 1-2) should be changed to: --wherein--.

“characterized in, that it comprises” (claim 6, line 2) should be changed to: --  
wherein the machine further comprises-- or --further comprising--.

“characterized in, that” (claim 7, lines 1-2) should be changed to: --wherein--.

Appropriate correction is required.

### ***Drawings***

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the sealing unit (claim 1), the control unit (claim 1), and the pusher arms (claim 6) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

6. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified

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and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 8: "the conveyor" is indefinite for it is unclear as to which of the accumulation convey and the feeder conveyor applicant is referring.

Claim 1, lines 9, 10 & 12: "preferably" render the claim indefinite for it is unclear whether the limitations following the phrase are part of the claim.

Claim 3, line 6: "tray 1" and "tray 1'" lack proper antecedent basis.

Claim 6, line 3: "can be" render the claim indefinite for it is unclear whether or not the pusher arms are actually associated with multiple containers on the accumulation conveyor.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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10. Claims 1 and 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Shanklin et al. (US 5,097,939).

With respect to Claim 1, Shanklin discloses a product feed system for feeding product to a form-fill-seal machine (col. 1, lines 18-34) including a sealing unit (inherent in a typical form-fill-seal machine) position downstream of the feed system; wherein the feed system includes a feeder conveyor (20) driven by a motor (91), a transfer conveyor (30) driven by a motor (36), a sensor (61) for sensing the leading edge of the product (A) and connected to a servo controller (92), a transducer (51) for sensing the speed of the feed conveyor; wherein the speed of the feeder conveyor (20) and the transfer conveyor (30) are synchronized during the handing over of the product (A) from the feeder conveyor to the transfer conveyor (30) (col. 7, lines 7-27).

With respect to Claim 4, the motor (31) is a servomotor (FIG. 7).

With respect to Claim 5, the feeder conveyor (20) is operated at continuous and random speed (col. 7, line 56 – col. 8, line 2).

With respect to Claim 6, the system of Shanklin further includes pusher arms (49) for detachably associating with the product (a) to transfer the product (A) to the sealing unit of the form-fill-seal machine.

With respect to Claim 7, note that the transfer conveyor stands still, it does not move up, down or sideways, when the pusher arms (49) transfer the product to the form-fill-seal machine.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shanklin et al. (US 5,097,939).

The system of Shanklin meets all of applicant's claimed subject matter but lacks the specific teaching of a second sensor for detecting the distance between the products in order to control the speed of the feeder conveyor. However, the sensor (61) in the system of Shanklin is used for such purpose (col. 13, lines 37-64). Therefore, it would have been obvious to an ordinary skilled person in the art, at the time the invention was made, to have modified the system of Shanklin by having provided an additional and separate sensor for detecting the distance between the products since it involves only routine skill in the art to accomplish the same result.

### ***Conclusion***

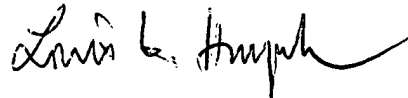
13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure has been cited on form PTO-892 along with the applied prior art.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is (571) 272-4462. The examiner can normally be reached on M-F from 9:30AM to 5:00PM.

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Louis K. Huynh  
PRIMARY EXAMINER  
Art Unit 3721

January 26, 2005